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14 Attorneys for Nominal Defendant  
15 EXTREME NETWORKS, INC.

**\*E-FILED - 1/16/08\***

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

13 In re EXTREME NETWORKS, INC.  
14 SHAREHOLDER DERIVATIVE  
15 LITIGATION

Case No. C-07-02268-RMW

**STIPULATION AND ~~PROPOSED~~  
ORDER REGARDING CASE  
MANAGEMENT AND MOTION  
SCHEDULE**

16 This Document Relates To:

17 ALL ACTIONS  
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1           **TO THE HONORABLE COURT:**

2           Plaintiff and defendants hereby stipulate and agree, by and through their undersigned  
3 counsel of record, as follows:

4           WHEREAS, this is a consolidated shareholder derivative action in which plaintiff alleges  
5 claims for violations of Sections 10(b), 14(a), and 20(a) of the Securities Exchange Act of 1934,  
6 15 U.S.C. §§ 78j(b), 78n(a), 78t(a), Rule 10b-5, 17 C.F.R. § 240.10b-5, and state law claims  
7 concerning stock options grants and related accounting practices by the individual defendants;

8           WHEREAS, lead plaintiff Frank A. Grucel (“Lead Plaintiff”) filed his First Amended  
9 Consolidated Complaint (the “Consolidated Complaint”) in this action on October 11, 2007;

10          WHEREAS, defendants are required to answer or otherwise respond to the Consolidated  
11 Complaint no later than November 26, 2007, pursuant to the parties’ September 26, 2007  
12 stipulation (Docket Entry No. 39);

13          WHEREAS, nominal defendant Extreme Networks, Inc. (“Extreme Networks”) intends to  
14 file a motion to dismiss the Consolidated Complaint for lack of standing, including for failure to  
15 excuse demand pursuant to Federal Rule of Civil Procedure 23.1, (the “Standing Motion”);

16          WHEREAS, individual defendants Gordon L. Stitt, Michael West, William R. Slakey,  
17 Michael J. Palu, Alexander J. Gray, Herb Schneider, Frank C. Carlucci, Stephen Haddock, Alicia  
18 Jayne Moore, Harry Silverglide, Robert L. Corey, Kenneth Levy, Charles P. Carinalli, Peter  
19 Wolken, Harold Covert, Vito Palermo, June Jull, Promod Haque, Lawrence Orr, Steven Fukuda,  
20 Bassam Halabi, Allan Miller, Christopher Todd, and Darrell Scherbarth intend to file one or more  
21 separate motions to dismiss the Consolidated Complaint for failure to state a cause of action  
22 pursuant to Federal Rule of Civil Procedure 12(b)(6) (the “Individual Defendants’ Motions”);

23          WHEREAS, for reasons of judicial economy and avoidance of overlapping effort and  
24 expense, all parties believe that Extreme Networks’ Standing Motion should be briefed and heard  
25 by the Court before the Individual Defendants’ Motions;

26          WHEREAS, the Court’s consideration of the Standing Motion before the Individual  
27 Defendants’ Motions will not cause delay in the progress of the case because the parties agree  
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1 that discovery may proceed if the Court denies the Standing Motion;

2 WHEREAS, plaintiffs agree not to seek entry of default as to any individual defendant  
3 pending the Court's consideration of this Stipulation and [Proposed] Order;

4 WHEREAS, previous time modifications in the case consist of continuing the Case  
5 Management Conference once by Court order (Docket Entry No. 14) and twice by stipulation  
6 (Docket Entry Nos. 36, 42), and extending the deadline for plaintiff to file the Consolidated  
7 Complaint (Docket Entry No. 39);

8 WHEREAS, the agreed-upon schedule is not for the purpose of delay, promotes judicial  
9 economy, and will not cause prejudice to any party;

10 WHEREAS, Local Rule 6-2 requires Court approval of any stipulation revising the date of  
11 a deadline already fixed by Court order;

12 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between  
13 the undersigned counsel for all parties, subject to Court approval, as follows:

14 1. Extreme Networks shall file and serve its Standing Motion according to the  
15 schedule previously set pursuant to the Stipulation and Order Revising Schedule for Filing of  
16 Consolidated Complaint, issued by this Court on October 3, 2007 (Docket Entry No. 39) (i.e.  
17 such motion shall be filed by November 26, 2007).

18 2. Other than as set forth above in paragraph 1, defendants need not respond to the  
19 Consolidated Complaint until resolution of the Standing Motion. If the Court denies the Standing  
20 Motion, the parties shall meet and confer regarding a schedule for the Individual Defendants'  
21 Motions.

22 3. Discovery may proceed once the Court denies the Standing Motion.

23 **IT IS SO STIPULATED.**  
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1 Dated: November 6, 2007

**MORGAN, LEWIS & BOCKIUS LLP**

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**Attorneys For Nominal Defendant Extreme  
Networks, Inc.**

12 I, Joseph E. Floren, am the ECF User whose ID and password are being used to file this  
13 STIPULATION AND [PROPOSED] ORDER. I hereby attest that the signatory identified below  
14 has concurred in this filing.

1 Dated: November 6, 2007

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**Lead Counsel for Plaintiff**

\* \* \*

**ORDER**

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: 1/16/08, 2007

*Ronald M. Whyte*

Hon. Ronald M. Whyte  
United States District Judge

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